

**Board for Professional Engineers and Land Surveyors
Board Meeting Minutes
March 18, 2005**

**DoubleTree Club Hotel San Diego
1515 Hotel Circle South
San Diego, California 92108
(619) 881-6900**

Friday, March 18, 2005

Board Members Present: James Foley (President), Gregg Brandow, David Fruchtmann, Robert Jones, William Roschen, Millicent Safran, William Schock, Elizabeth Warren, and Dale Wilson.

Board Members Absent: Cindy Tuttle (Vice President), Arthur Duffy, Michael Welch, and Edward Yu.

Board Staff Present: Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Susan Ruff (Liaison Deputy Attorney General), Debbie Thompson (Budget Analyst), Nancy Eissler (Enforcement Program Manager), and Cindy Fernandez (Executive Analyst)

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order by President Foley at 9:10 a.m. Roll call was taken, and a quorum was established.

2. Public Comment

Mr. Moser, representing the Consulting Engineers and Land Surveyors of California (CELSOC), stated that he would be addressing the Board when the Title Act Study was discussed.

Mr. Arnold, representing the California Land Surveyors Association (CLSA), stated that he was here to answer any land surveying questions.

3. **Approval of Consent Items (Possible Action)**
(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

a. **Approval of the Minutes of the January 20 & 21, 2005, Board Meeting**

MOTION: Mr. Schock/Ms. Safran moved to approve the minutes of the January 20 & 21, 2005, Board meeting.

VOTE: 9-0, motion carried.

b. **Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)**

MOTION: Mr. Wilson/Mr. Schock moved to approve candidates for licensure and certification based on examination results, including successful appeal results and take home examination results, approved in closed session.

VOTE: 9-0, motion carried.

4. **Approval of Delinquent Reinstatements (Possible Action)**

MOTION: Mr. Schock/Mr. Wilson moved to approve the Delinquent Reinstatements as follows:

CIVIL

1. **Khosroo Sadeghi Esfahlani**

Reinstate applicant's civil license once he/she takes and passes the seismic principles examination, the engineering surveying examination, the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

2. **Behzad Mahini**

Reinstate applicant's civil license once he/she takes and passes the seismic principles examination, the engineering surveying examination, the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

CONTROL SYSTEMS

1. **Richard Klein**
Reinstate applicant's control systems license once he/she pays all delinquent and renewal fees.

ELECTRICAL

1. **Hua Qiu**
Reinstate applicant's electrical license once he/she takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.
2. **James Mearns**
Reinstate applicant's electrical license once he/she pays all delinquent and renewal fees.
3. **Henry Roberts**
Reinstate applicant's electrical license once he/she takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

QUALITY

1. **Richard Seals**
Reinstate applicant's quality license once he/she takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

VOTE: 9-0, motion carried.

5. Comity and Temporary Authorization Applications (Possible Action)

MOTION: Ms. Safran/Mr. Schock moved to approve the Amended Handout Comity List.

VOTE: 9-0, motion carried.

6. Proposed Absorption of Board into the Department of Consumer Affairs (Possible Action)

No report given.

7. Adoption of Amendments to Board Rule 407 (Fees) (Possible Action)

MOTION: Mr. Schock/Dr. Brandow moved to adopt the amendment to Board Rule 407, regarding fees, and direct staff to prepare the final rulemaking file for submittal to the Department of Consumer Affairs (DCA) and the Office of Administrative Law (OAL) for review and approval.

VOTE: 9-0, motion carried.

8. Sunset Review Issues

a. Legislative Proposals (Possible Action)

Ms. Christenson reported on the letter from Mr. Gage regarding CLSA's proposals to the 2005 Senate Business and Professions Committee Omnibus Legislation. Below are the Boards motions/votes regarding these proposals.

MOTION: Ms. Safran/Mr. Fruchtmann moved not to support any changes to, Business and Professions Code Section 8726; defines the practice of land surveying and specifies various activities that constitute the practice of land surveying.

VOTE: 9-0, motion carried.

Ms. Safran requested that CLSA pull back 8726 until it is further reviewed and then come back to the Board at a later date with clarification regarding 8726.

MOTION: Ms. Safran/Mr. Schock moved not to support Business and Professions Code Section 8727; exempts certain activities from the practice of land surveying. Specifically, this section exempts geological and landscaping surveys from the practice of land surveying.

VOTE: 9-0, motion carried.

MOTION: Mr. Wilson/Ms. Safran moved to support repeal of Business and Professions Code Section 8753; authority for out-of-state/country land surveyors to obtain a temporary license to practice in California.

VOTE: 9-0, motion carried.

MOTION: Mr. Wilson/Ms. Safran moved to support the changes to Business and Professions Code Section 8761; authorizes a licensed land surveyor to engage in the practice of land surveying and specified activities including the preparation of “maps, plats, reports, descriptions, or other documentary evidence” in connection with land surveying.

Ms. Eissler reported that the LS TAC reviewed these changes a few years ago and agreed with the changes.

VOTE: 9-0, motion carried.

b. Sunrise Process (Possible Action)

Ms. Christenson reported on the hand out from Senator Liz Figueroa, Chair of the Sunset Committee. The following are the issues Ms. Figueroa asked that the Board address at its March 18, 2005 Board meeting.

1. As far as recommendation regarding limited overlap for Practice Act disciplines, is it the intent of the Board that overlap for the Title Acts converted to Practice Acts would be allowed in the area of civil engineering as well as mechanical and electrical engineering?

MOTION: Mr. Wilson/Mr. Schock moved to deal with overlap as recommended by the Board in Recommendation #1 from April 2004.

VOTE: 9-0, motion carried

2. Also regarding limited overlap for Practice Act disciplines, was it the intent of the Board that overlap would be allowed for all those currently licensed in the Title Act disciplines converted to Practice Acts, with no distinction made between those who may have been grandfathered into the Title Act disciplines when they were originally enacted?

MOTION: Mr. Schock/Mr. Fruchtman moved to make no distinction, treat all the same.

VOTE: 9-0, motion carried

3. Should there be a provision that restricts overlap as it pertains to design of building structures?

MOTION: Ms. Safran/Mr. Wilson moved to have a provision that restricts overlap as it pertains to design of building structures.

VOTE: 9-0, motion carried

4. Should there be a provision in statute that assures that civil, electrical and mechanical engineers can still practice within Title Act disciplines that have been converted to Practice Acts, but that Board Rule 415 (moved to statute) would still apply?

MOTION: Mr. Schock/Mr. Wilson moved to maintain status quo.

VOTE: 9-0, motion carried

Ms. Christenson reported that within the next couple of months there will be a meeting with Mr. Gage regarding the sunrise and sunset issues. The hearing date will be April 5, 2005; Mr. Gage has requested that President Foley and Dr. Brandow attend this hearing.

9. Administrative

a. Fund Condition (Possible Action)

Ms. Thompson reported on the Board's fund condition dated January 23, 2005. Renewal revenue projections for FY 2004-05 increased from \$3,517,520 to \$4,164,000 and application revenue increased from \$3,446,100 to \$3,511,000. The Board still faces a projected deficit in FY 2008/09.

b. Fiscal Year 2004/05 Budgets (Possible Action)

Ms. Thompson reported that the expenditure projection as for FY 2004-05 is \$7,316,685 with a budget balance of \$245,416 projected for year end.

c. Publication Review (Possible Action)

With regard to the Enforcement Bulletin redesign, Ms. Thompson reported that the Board could utilize the services of the temporary help now working on the bulletin to redesign the Bulletin if the Board did not contract out with a vendor for the services. Ms. Eissler reported three bids were received for the redesign work and they were from between \$900 to \$5,000. The Board would be required select the lowest bidder. Those that responded with a bid provided samples of their work but no suggested redesign.

MOTION: Dr. Brandow/Mr. Schock moved to have the Board's current temporary help perform the redesign of the bulletin.

VOTE: 9-0, motion carried.

The City and County Building Officials Guide is still being in the process of being updated.

d. Pass Through of Exam Application Fees (Possible Action)

Ms. Thompson reported that, as approved by Board members, Board staff is in the process of proposing legislation that will allow the Board to contract with its national organization so that applicants can pay their national exam fees directly to the national organization. This legislation will also give the Board authority to contract with a vendor to administer the Board's exams.

Board staff contacted other state engineering boards prior to drafting the legislative proposal to ensure the Board's fee structure proposed would be consistent with how fees are allocated by other comparable state engineering boards. Regarding other DCA boards, those that develop their own state exams also augment their exam costs with license renewal revenue. A large percentage of the DCA Boards that don't augment their exams costs also require applicants to pay their exam fees directly to their national organization.

Ms. Thompson pointed out that a decision regarding the fee structure details (i.e., Board exam fees) will be needed once legislation is enacted.

MOTION: Ms. Safran/Mr. Wilson to include language and fee structure information in the legislative proposal that will reduce license revenue augmentation of exams expenses and will restructure fees so that they are more equitable for exam applicants.

VOTE: 9-0, motion carried.

10. Enforcement

a. Update regarding Rulemaking Proposals, including but not limited to Board Rules 404.1 and 404.2 (Responsible Charge), Board Rule 418 (Criteria for Rehabilitation), and Board Rule 473 (Citations of Licensed Persons) (Possible Action)

Ms. Eissler advised that Board that only one comment had been received regarding the proposed modifications to the amendments to Board Rules 404.1 and 404.2; the commentor indicated that the modifications made the language clearer. Ms. Eissler advised that staff would be preparing the final rulemaking files for all three proposals for submittal to DCA and OAL for review and approval.

11. Examinations/Qualifications

a. Special Civil Occupational Analysis Study Update (Possible Action)

Ms. Christenson reported on the information contained in the agenda and reported that we will be obtaining 2-4 bids from vendors.

- b. Update regarding Rulemaking Proposals, including but not limited to Board Rules 404, 424, and 460 [Definitions, Experience Requirements & Curricula Approved By the Board] and Board Rule 443 (Inspection of Examination) (Possible Action)**

Ms. Christenson reported on the information contained in the agenda and also reported that DCA is really scrutinizing all Rulemaking Proposals that are being submitted.

- c. Requests for Proposals for the Special Civil, Professional Land Surveyor, Geotechnical, and Structural Examinations. (Possible Action)**

Ms. Christenson reported on the information contained in the agenda.

12. Legislative

- a. Discussion of Legislation for 2005, including but not limited to AB 180, AB 226, AB 485, AB 861, SB 246, and SB 412 (Possible Action)**

Ms. Eissler reported on the information contained in the agenda.

MOTION: Mr. Wilson/Mr. Schock moved to watch AB 180 regarding limited liability partnerships for engineers and land surveyors.

VOTE: 9-0, motion carried.

MOTION: Ms. Safran/Mr. Schock moved to watch AB 226 regarding boards and commissions.

VOTE: 9-0, motion carried.

MOTION: Ms. Safran/Mr. Wilson moved to oppose AB 861 unless amended to exclude our Board.

VOTE: 9-0, motion carried.

MOTION: Dr. Brandow/Mr. Schock moved to support SB 246, the Board's Sunset bill.

VOTE: 9-0, motion carried.

MOTION: Mr. Fruchtman/Mr. Schock moved to support SB 752 regarding qualifications for comity licensure for engineers.

VOTE: 9-0, motion carried.

- b. Regulation Status Report**
Updates contained in the agenda.

13. Technical Advisory Committee Reports
(No Committee Meetings were held.)

- a. Board Assignments to TACs (Possible Action)**
No assignments to TACs.
- b. Appointment of TAC Members (Possible Action)**
No appointment of TAC Members.

14. Liaison Reports (Possible Action)

- a. ABET**
No report given
- b. NCEES**
No report given.
- c. Technical and Professional Societies**
No report given.

15. President's Report

President Foley appointed Mr. Schock and Dr. Brandow to the nominating committee for next year's President and Vice President.

President Foley went to the Examination Task Force meeting in Phoenix, Arizona. He reported that examination dates have been set through the year 2015. They also talked about calculators, hand scoring, and guidelines on how to determine how much examination materials a candidate is permitted to bring into an examination. There was also talk of looking into publishing an examination reference book giving enough technical information to solve problems.

16. Executive Officer's Report

- 1. Administration Report**

- a. **Executive summary report**
No additional report given.
- 2. **Personnel**
 - a. **New Hires**
No report given.
 - b. **Vacancies**
No report given.
- 3. **Enforcement/Examination/Licensing**
 - a. **College Outreach**
No report given.
 - b. **Report on Enforcement Activities**
No report given.
 - c. **Report on Examination Activities**
No report given.
- 4. **Publications/Website**
 - a. **Website Activity Statistics**
No additional report was given.
- 5. **Other**
 - a. **DCA update**
No report given.

Ms. Christenson reported that Ms. Anneliese P. Anderle, a candidate for licensure, had indicated that she would appear at this Board meeting to present her case to the Board, but she did not appear. Ms. Christenson gave the Board a summary of Ms. Anderle's application process. The Board determined that there was no need to place an item on upcoming agenda to discussion Ms. Anderle's application.

- 17. **Approval of Board Travel (Possible Action)**
No Board travel.
- 18. **Other Items Not Requiring Board Action**
Date of Next Board meeting: May 12 & 13, 2005, Sacramento, California
- 19. **Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant**

to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), and 11126 (e)(1)]

- a. Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492
- b. Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996)

20. Open Session to Announce the Results of Closed Session

Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492, and Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996).

Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidates who had previously passed the 8-hour portion of the indicated examinations.

Ms. Christenson reported that the Board adopted the Stipulations regarding Kai-Min Jimmy Jen, Warren Whaley, and Hugh Lynn Ezzell, and denied the Petition for Reconsideration of Michael Carlos Laroue.

20. Adjourn

The Board adjourned at 2:45 p.m.

PUBLIC PRESENT

Tom Stout, CSPE/CLCPE

Basil Alexander, CPIL

Steve Celniker, City of San Diego

Jas Arnold, CLSA

Bill Moser, CELSOC

D'Arcy McLeod, PEGG